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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,743	11/25/2003	Christian Correll	1454.1512	3113
21171	7590	09/19/2007		
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER PERUNGAVOOR, VENKATANARAY	
			ART UNIT 2132	PAPER NUMBER
			MAIL DATE 09/19/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/720,743

Applicant(s)

CORRELL ET AL.

Examiner

Venkat Perungavoor

Art Unit

2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 8/15/2007 have been fully considered but they are not persuasive.
2. The Applicant argues that the optical ADP layer is situated between layer 2(data link) and layer 3(network, i.e., IP), as opposed to be in firmly in IP layer. The Examiner disagrees as Masuda(US Patent 6931025) discloses the optical node containing pluralistic subscriber network such as IP to be defined by the OSI model see Col 3 Ln 27-31. And further mentions that this network functions as three layers physical, data link and network see Col 3 Ln 32-36.
3. Additionally, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., IP layer) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). That is, the claims recites the aggregation of IP packets, but do not explicitly state this taking place in the network/IP layer as the Applicant purports. Inasmuch, the collection of packets, Masuda discloses the collection of IP packets(of different stream) being sent to destination see Fig. 4.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6931025 to Masuda in view of US Patent 6091820 to Aziz.
6. Regarding Claim 1, 5, Matsuda discloses the forming a collective Internet Protocol data packet, each containing several data packets of different communication streams see Fig. 4 item 3a. But does not explicitly disclose the encrypting of the collective Internet Protocol packet and further of transmitting the encrypted collective packet. However, Aziz discloses the encrypting of packet see Fig. 3 see "Encrypt Packet in  $K_p$ , Encrypt  $K_p$  in  $[K_{ij}]_{N_i}$ " and transmit the encrypted packet see "Send Encrypted PKT & Encrypted  $K_p$  to J". And further Aziz discloses the collection of packets being encrypted using a single key see Col 11 Ln 22-40 (where Aziz mentions the significant overhead associated with changing keys, similar to the instant application's specification<sup>1</sup> and ameliorate the problem by pre-computing the keys for initialization process). It would be obvious to one having ordinary skill in the art at the time of the invention to include encrypting of packets and transmitting the encrypted packet in the invention of Matsuda in order to have privacy and authenticity in a IP environment as taught in Aziz see Col 8 Ln 59-64.
7. Regarding Claim 6, Matsuda discloses the adding/encapsulating of a second IP packet header to the first collective packet see Fig. 3 item 2a.

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<sup>1</sup> Par. 0008

8. Claims 2-4, 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6931025 to Masuda in view of US Patent 6091820 to Aziz further in view of US Patent 2003/0133461 to Ho et al.(hereinafter Ho).
9. Regarding Claim 2, Matsuda nor Aziz explicitly disclose a network tunnel through which encrypted packets can be sent. However, Ho discloses the network tunnel through which encrypted packets can be sent see Fig. 1 item 160 & Apr. 0029. It would be obvious to one having ordinary skill in the art at the time of the invention to include a network tunnel through which encrypted packets can be sent in the invention of Matsuda in order to have constant bit rate though the tunnel as taught in Ho see Par. 0025.
10. Regarding Claim 3,7, Matsuda discloses the determining of different communication data stream(audio, IP packet) destined for same destination and collectively forming a packet including the different communication streams see Fig. 1 item 3f & 3g.
11. Regarding Claim 4, Matsuda does not disclose the time interval for receiving packet to be encrypted. However, Aziz discloses the time interval for receiving packets to be encrypted see Fig. 7 item "Wait for PKTS or TIMEOUT". It would be obvious to one having ordinary skill in the art at the time of the invention to include the time interval for receiving packets to be encrypted in the invention of Matsuda in order to key changed on each time interval as taught in Aziz see Fig. 7 item "Time to Change".

12. Regarding Claim 8, Matsuda discloses the super frames being constructed within the traffic meter parameters, which includes Timeouts see Fig. 1 "Super Frame Constructing Waiting" & Fig. 7.


***Conclusion***

- 13. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Venkat Perungavoor whose telephone number is 571-272-7213. The examiner can normally be reached on 8:30-5:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VP/  
Venkat Perungavoor  
Examiner  
Art Unit 2132  
September 12, 2007

  
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